



शिमला, बुधवार, 14 जून, 1978/24 ज्येष्ठ, 1900

हिमाचल प्रदेश सरकार

FOOD AND SUPPLIES DEPARTMENT

NOTIFICATION

Simla-171002, the 5th June, 1978

Now, therefore, in exercise of the powers conferred by section 3 of the Essential Commodities Act, 1955 (10 of 1955) read with order of the Government of India, Ministry of Commerce, Civil Supplies and Co-operation (Department of Civil Supplies and Co-operation) S.O. No. 271 (E), dated 15-4-1978, and all other powers enabling him in this behalf and with the prior concurrence of the Central Government, the Governor of Himachal Pradesh is pleased to make the following Order, namely, the Himachal Pradesh Tea (Registration of Dealers and Declaration of Stocks) Order, 1978.

1. Short title, application and commencement.—(1) This Order may be called the Himachal Pradesh Tea (Registration of Dealers and Declaration of Stocks) Order, 1978.

(2) It applies to the whole of the State of Himachal Pradesh.

(3) It shall come into force with immediate effect.

2. *Definition.*—(a) “commission agent” means a commission agent having in the customary course of business as such agent authority either to sell tea or to consign tea for the purposes of sale or to buy tea;

(b) “dealer” means a dealer in tea, and includes a broker, commission agent, manufacturer and a warehouse keeper;

(c) “tea” means the plant *Camellia Sinensis* (L) O Kuntze as well as all varieties of the product known as well as all varieties of the product known commercially as tea made from the leaves of the said plant, including green tea;

(d) “warehouse keeper” means a person who owns or maintains a warehouse wherein tea is stored for the purposes of sale either by auction or otherwise;

(e) words and expressions used but not defined herein shall have the meanings respectively assigned to them in the Tea Act, 1953 (29 of 1953);

(f) “retailer” means a dealer in tea who is not wholesaler;

(g) “wholesalers” means a dealer in tea who sell such commodities to other dealers or to bulk consumers;

(h) “director” means the Director, Civil Supplies, Himachal Pradesh and includes the Deputy Directors, Food and Supplies, Himachal Pradesh;

(i) “inspector” means District Inspector, Inspector and Sub-Inspector, Food and Supplies;

(j) “licensing authority” means the District Magistrate and all District Food and Supplies Controllers;

(k) “district magistrate” means the District Magistrate of the District and includes an Additional District Magistrate, Sub-Divisional Magistrate and Executive Magistrate in the District within the areas of their respective jurisdiction.

3. *Licensing of Dealer.*—After fifteen days from the coming into force of this order, no person shall carry on business as a dealer in tea except under and in accordance with the terms and conditions of a licence granted to him in this behalf by the licensing authority if the stocks of tea in his possession exceeds 1000 kg. in the case of wholesaler and 100 kg. in the case of retailer including green tea.

4. *All dealers licensed under the Himachal Pradesh Tea (Registration of Dealer and Declaration of Stocks) Order, 1978.*—Shall be deemed to be a dealer under this order upto and including 21st June, 1978 by which date they shall obtain a licence under this Order.

5. *Restriction on possession of tea.*—No dealer shall after a period of 15 days from the coming into force of this order either by himself or by any person on his behalf, store or have in his possession at any time any tea in excess of the quantities specified below;—

Wholesaler	1000 kg.	including green tea.
Retailer	100 kg.	including green tea.

6. *Issue of licence.*—(1) Every application for a licence or renewal thereof shall be made to the licensing authority in Form 'A'.

(2) An application for renewal of a licence shall be made so as to reach the licensing authority, not less than 30 days before the date on which the licence expires.

(3) Every licence shall be issued in Form 'B' and shall be subject to the conditions mentioned therein and such other conditions as the licensing authority may prescribe from time to time.

(4) If a licence granted under this Order is defaced, mutilated, or destroyed the dealer shall forthwith inform the licensing authority, who may, on an application by the licensee, issue a duplicate licence.

(5) A separate licence shall be obtained by a dealer for each place of business. The licence granted under this order, unless previously suspended or revoked, shall continue upto 31st March, but shall be renewable annually, on an application by a licensee to the District Food and Supplies Controller which shall be made before the expiry of the validity period of licence accompanied by a renewal fee.

6. *Fees chargeable.*—The fees specified below shall be chargeable in respect of each licence, namely:—

	Wholesaler	Retailer
(i) For issue of licence	Rs. 10/-	Rs. 5/-
(ii) For renewal of licence upto validity period	Rs. 5/-	Rs. 2/-
(iii) For issue of duplicate licence	Rs. 5/-	Rs. 2/-

7. *Deposit of security.*—Every person who applies for licence under this order, shall, before a licence is issued to him, deposit with the licensing authority a security of rupees 250/- in respect of wholesaler and rupees fifty in respect of retailer in such form as the licensing authority may direct for the due performance of the conditions subject to which the licence is granted to him.

8. *Power to refuse licence.*—The licensing authority may, after giving the dealer concerned an opportunity of stating his case and for reasons to be recorded in writing, refuse to grant or renew a licence.

9. *Directions regarding distribution and sale.*—(1) The licensee shall comply with any direction that may be given to him by the Government, Director or the licensing authority in regard to the purchase, sale and storage for sale of tea.

(2) The licensee shall not sell tea at rates higher than those that may be fixed from time to time by the Central or State Government in exercise of any powers conferred by law.

10. *Maintenance of Stocks Register.*—(1) Every wholesaler shall maintain an account of stock in form 'C' of the daily delivery receipts and consumption, as the case may be, and keep it up-to-date at the place of his business for inspection as and when required.

(2) Every licensee shall submit to the licensing authority, a monthly return by the end of the month of stock and sale in Form 'D' of each variety of tea purchased or sold, as the case may be, so as to reach that authority within three days after the close of the month to which it relates.

11. Contravention of conditions of licence.—No holder of a licence issued under this order or his agent or servant or any other person acting in his behalf shall contravene any of the terms and conditions of the licence or directions issued under clause 9 and if any such holder or his agent or servant or any other person acting on his behalf contravenes any of the said terms, conditions or directions, without prejudice to any other action that may be taken against him, his licence may be cancelled or suspended by order in writing of the licensing authority:

Provided that no order shall be made under this clause unless the licensee has been given a reasonable opportunity of stating his case against the proposed cancellation or suspension.

12. Power to cancel licence.—Notwithstanding anything contained in clause 11 where a licensee has been convicted by a court of law in respect of contravention of any order made under section 3 of the Essential Commodities Act, 1955 (10 of 1955) relating to food stuffs and no appeal is filed against such conviction within the period of limitation prescribed therefor or where such appeal has been filed, conviction is finally maintained by the court of law, the licensing authority may, by order in writing cancel his licence.

13. Forfeiture of security deposits.—(1) Without prejudice to the provisions of clause 11, if the licensing authority is satisfied that the licensee has contravened any of the conditions of the licence and that a forfeiture of the security deposit is called for, it may, after giving the licensee a reasonable opportunity of stating his case against the forfeiture by order in writing, for whole or any part of the security deposited by him and communicate a copy of the order to the licensee.

(2) The licensee shall, if the amount of security at any time, falls short of the amount specified in clause 7, forthwith deposit further security to make up that amount on being required by the licensing authority to do so.

(3) Upon due compliance by the licensee with all obligations under the licence, the amount of security or such part thereof which is not forfeited as aforesaid, shall be returned to the licensee after the termination of the licence.

14. Appeal.—(1) Any person aggrieved by an order of the Licensing Authority refusing to grant or renew the licence or cancelling or suspending a licence or forfeiting the security deposited by the licensee under the provisions of this Order, may appeal to the Director within 30 days of the date of receipt by him of such order.

(2) No such appeal shall be disposed of unless the aggrieved person has been given reasonable opportunity of stating his case.

(3) The decision of the Director and subject only to that decision the order of licensing authority shall be final.

(4) Pending the disposal of the appeal, the Director may direct that the order refusing to renew a licence or the order cancelling or suspending the licence shall not take effect till the appeal is disposed of.

15. Inspection of books and documents.—The Director, the District Magistrate, the Licensing Authority and the Inspector may inspect or cause to be inspected any books or other documents belonging to or under the control of a producer or a dealer.

16. Powers of entry, search and seizure (1).—The Director, District Magistrate, Licensing Authority, Inspector or any other officer authorised by the H.P. Govt. in the behalf may, with such assistance, if any, as he thinks fit—

- (a) require the owner, occupier or any other person in charge of any place, premises, vehicle or vessel in which he has reason to believe that any contravention of the provisions of this order or of the conditions of any licence issued thereunder has been, accounts or other documents showing transactions relating to such contravention;
- (b) enter, inspect or break open and search any place or premises, vehicles or vessel in which he has reason to believe that any contravention of the provisions of this order, or of the condition of any licence issued thereunder has been, is being or is about to be committed;
- (c) search, seize and remove stocks of tea and the animals, vehicles, vessels or other conveyance used in carrying the said tea for contravention of the provisions of this order or of the conditions of the licence issued thereunder and thereafter take or authorise the taking of measures necessary for securing the production of stocks of tea and the animals, vehicles, vessels or other conveyance so seized in a court and for their safe custody pending such production.

(2) The provisions of section 100 of the Code of Criminal Procedure, 1973 relating to search and seizure, shall so far as may apply to searches, seizures under this clause:

Provided that in exercising the power of entry and search under this clause, due regard shall be paid by the officer concerned to the social and religious customs of the occupants of premises so entered and searched.

17. *Order not to apply in certain cases.*—Nothing in this order shall apply—

- (i) to a corporation or company owned or controlled by the Central Government or a State Government or
- (ii) to any Central level or State Level Co-operative Society, engaged in the production, procurement, sales, purchase or distribution of tea.

18. *Power to exempt.*—The State Government may, if it considers it necessary for avoiding any hardship or for any other just and sufficient reason, by notification in the official gazette, exempt any producer, dealer or commission agent from the operation of all or any of the provisions of this Order either generally or for any specified period, subject to such conditions as may be specified in the notification:

Provided that no notification under this clause shall be issued except with the previous approval of the Central Government.

THE HIMACHAL PRADESH TEA (REGISTRATION OF DEALERS AND DECLARATION OF STOCKS) ORDER, 1978

FORM 'A'
(See Clause 6)

To
The District Magistrate/District Food & Supplies Controller,

Application for grant/renewal of Wholesale/Retail Licence.

1. Name in which licence is required.....

2. Persons having interested in the business.....
3. Name..... Father's name..... Home address.....
4. Situation of application's place of business with particulars as to number of house, town or village, police station and district.....
5. How long has the applicant being trading in tea.
6. Quantities of each variety of tea handled during the last year.
7. Quantity of tea to be handled during the current year.
8. Income Tax paid in the two years proceeding the year of application (to be indicated separately).

(1)

(2)

9. (1) Quantity of tea in the possession of the applicant on the date of application (separate figures are to be given for each variety of tea).
- (2) Complete address of places where tea is proposed to be stored.

I declare that the quantities of tea are in my possession.

I have carefully read the conditions of licence and I agree to abide by them. I/we also declare that the above information is true to the best of my/our knowledge and belief.

I hereby apply for renewal of licence No..... dated..... issued to me on.....

Place.....

Date.....

Signature of the applicant.

HIMACHAL PRADESH TEA (REGISTRATION OF DEALERS AND DECLARATION OF STOCKS), ORDER, 1978.

FORM 'B'

(See Clause 6)

LICENCE FOR PURCHASE, SALE OR STORAGE FOR SALE OF TEA

Licence No.....

1. Subject to the provisions of the Himachal Pradesh Tea (Registration of Dealers and Declaration of Stocks) Order, 1978 and to terms and conditions of this licence..... is/are hereby authorised to purchase, sell or store for sale of tea including green tea.

- 1.
- 2.
- 3.

2. (a) The licensee shall carry on the aforesaid business at the following places—

(b) Tea in which the aforesaid business is to be carried on shall not be stored at any place other than any of the godowns mentioned below:—

- 1.
- 2.
- 3.

Note.—If the licensee stores his tea at any place other than these specified above, he shall give intimation to the licensing authority within 24 hours of such storage.

1.
2.
3.

3. (i) The licensee shall, excepted when specially exempted by the State Government or by the licensing authority in this behalf maintain a register of daily accounts for each of the tea showing correctly—

- (a) the opening stock on each day;
- (b) the quantities received on each day showing the places from where and the source for which received.
- (c) the quantities delivered or otherwise removed on each day showing the place of destination; and
- (d) the closing stock of each day.

(ii) The licensee shall complete his accounts for each day on the day to which they relate, unless prevented by reasonable cause, the burden of proving which shall be upon him.

(iii) A licensee who is a producer himself shall separately show the stocks of his own produce in the daily account, if such stocks are stored in his business premises.

4. (i) The licensee shall, except when specially exempted by the State Government or by any officer authorised by the State Government in this behalf submit to the licensing authority concerned a true return in form 'D' of the stocks, receipts and deliveries of the tea every month so as to reach him within 3 days after the close of the month.

(ii) Licensees shall however, submit their returns of stocks of tea separately, in addition to return for tea in form 'D'.

5. The licensee shall, not contravene the provision of the Himachal Pradesh Tea (Registration of Dealers and Declaration of Stocks) Order, 1978 or any other order relating to food-stuffs issued under the Essential Commodities Act, 1955 (10 of 1955).

6. The licensee shall not contravene the provisions of any other law relating to food stuffs for the time being in force.

7. The licensee shall not enter into any transaction involving purchase, sale or storage for sale of tea in a speculative manner prejudicial to the maintenance and easy availability of supplies of tea in the market.

8. The licensee shall exhibit the entrance or some other prominent place of his business premises the stock and price of the tea held by him for sale. Such lists shall be legibly written in the principal language of the locality concerned. It shall indicate separately the stock and prices of different varieties of tea.

9. The licensee shall, except when specially exempted by the State Government or by the licensing authority in this behalf issue to customer a correct receipt of invoice as the case may be, giving his own name, address and licence number, the name address and licence number (if any) of the customer, the date of transaction, the quantity sold, the price per quintal and to total amount charged and shall keep a duplicate copy of the same to be available for inspection on demand by the licensing authority or any officer authorised by it in this behalf.

10. The licensee shall give all facilities at all reasonable times to the licensing authority or any officer authorised by it or the State Government for the inspection of his stocks and accounts at any shop, godown or other place used by him for storage, sale or purchase of tea for examination.

11. The licedsee shall comply with any direction that may be given to him by the State Government, Director, District Magistrate or the Licensing Authority in regard to the language in which the register, returns, receipts or invoices mentioned in para 3, 4 or 9 shall be written and the authentication and maintenances of the register mentioned in para 3 and 9.

12. The licensee shall in a case where the functions in a regulated market abide by such instructions relating to his business as are given by the marketing authority having jurisdiction, and in any other case by some body as may be recognized by the State Government in this behalf.

13. The licensee shall not sell or offer to sell in any locality any tea at a price higher than that fixed, for sale of tea in such locality, by the Central Government or the State Government, in pursuance of any power conferred by law.

14. This licence shall be attached to any application for renewal.

15. This licence shall be valid upto.....

Place.....

Date.....

(Licensing Authority).

FORM 'C'
[See Clause 10 (1)]

FORM OF REGISTER FOR MAINTENANCE OF STOCK ACCOUNTS

Sr. No.	Date	Name of Com- modity	Stock in hand/ opening balance	Stock received
1	2	3	4	5
Source from where received		Total columns 4 and 5	Total delivered/ sold	Balance.
6		7	8	9

Note.—Separate accounts of tea to be maintained.

FORM 'D'

(See Clause 10)

RETURN OF STOCKS, RECEIPTS AND SALE OF TEA FOR THE MONTH
ENDING.....

Name.....

No. of Licence.....

Address.....

Particulars of godown where stocks held.

Particulars	Quantity	Remarks
1. Stock at the beginning of the month:		
(a) Actually with the stockists.		
(b) pledged as a bank or Coop. Society.		
	Total	
2. (a) Quantity purchased during the month and the source of supply.		
(b) Total quantity purchased during the month ending:		
(i) Average price paid		
Quantity sold:		
(a) quantity sold and delivered/removed during the month		
1. Locally or for movement to places		
2. Within the State of Himachal		
3. For movement to other State :		
	Total: (1) plus (2)	
	Total: (a)	
(c) (i) Total Quantity sold during the month ending		
(ii) Average price realized/charged stocks at the end of the month.		
4. (a) Actually with the Stockists :		
(i) unsold		
(ii) sold but awaiting delivery.		
(b) pledged with any other person or institution such as a Bank or a Co-operative Society.		
	Total	
5. Details of average margin in respect of stocks of each of the tea sold during the month:		
(a) Handling.....		
(b) Transport.....		
(c)		
(d)		
(e) Net Profit.....		

By order,
ATTAR SINGH,
Secretary.

